

NATIONAL CENTER FOR STATE COURTS

***MICHIGAN TRIAL COURT
CONSOLIDATION
DEMONSTRATION PROJECTS:***

***2001 FOLLOW-UP
ASSESSMENT REPORT***

**Final Report, September 2001
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MICHIGAN TRIAL COURT CONSOLIDATION DEMONSTRATION PROJECTS: 2001 FOLLOW-UP ASSESSMENT REPORT

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PART ONE.

FOLLOW-ASSESSMENT OVERVIEW AND SUMMARY

I. Introduction

Beginning in 1996, trial courts in six Michigan judicial circuits undertook experiments in structural, administrative, and financial consolidation under a program sponsored by the Supreme Court of Michigan. The Michigan State Court Administrative Office (SCAO) invited trial courts to apply for selection as demonstration sites under the Supreme Court's Program for Reforming the Judicial Branch of Government and reached agreement with six demonstration courts: Barry County, Berrien County, Isabella County, Lake County and Washtenaw County, as well as the 46th Circuit (which includes Otsego, Kalkaska, and Crawford Counties). In February 1999, a seventh demonstration project was begun in Iron County.

Under an agreement with SCAO, the National Center for State Courts (NCSC) began an evaluation of the six initial demonstration courts in 1996. NCSC's final evaluation report was completed in February 1999.¹ In 2001, SCAO concluded that a follow-up assessment of the demonstration projects would be desirable and engaged NCSC to conduct it.²

This report presents the results of the NCSC follow-up assessment of the demonstration courts. In Part One, Section II summarizes the methodology for the assessment. Section III in Part One then presents the NCSC evaluator's findings and recommendations.

Those findings and recommendations have to do with whether the demonstration projects have met the goals of trial court consolidation as discussed in Part Two. In that part of the report, NCSC appraises the demonstration courts in terms of six major questions:

1. Have the demonstration projects promoted the efficient use of judicial and quasi-judicial resources?
2. Have the demonstration projects hastened the delivery of justice to

¹ See David Steelman, Karen Gottlieb, and Dawn Marie Rubio, *Michigan Trial Court Consolidation: Final Evaluation Report* (Denver, Colo.: National Center for State Courts, Court Services Division, 1999).

² See Contract No. SCAO-2001-53 (July 23, 2001), between SCAO and NCSC.

- families?
3. Have the demonstration projects reduced operational costs?
 4. Have the demonstration projects reduced the age and size of the pending inventory?
 5. Have the demonstration projects employed technology productively to enhance scheduling and information exchange?
 6. Have the demonstration projects promoted strong court leadership through consensus decision-making led by the chief judge?

These six questions were developed by SCAO in 2001, and they are based on the core criteria used by NCSC for its initial evaluation of the demonstration projects.³ Those core criteria were the result of consultation in 1996 between the NCSC lead evaluator, SCAO officials, and the leaders of the demonstration courts. They were derived from fundamental values of the Michigan judicial system (independence, responsiveness, accountability, fairness, effectiveness and accessibility), as recommended in 1995 to the Michigan Supreme Court by the Michigan Justice Planning Commission (MJPC).⁴ More specifically, they were based in large part upon the benefits that the MJPC envisioned would arise from the kind of trial-court consolidation being tried in the demonstration projects.⁵ The questions to be answered in Part Two thus arise from the kinds of fundamental concerns that the demonstration projects were designed to explore.

After addressing these questions, Part Two ends with a summary of the global conclusions by key stakeholders (who were not themselves involved in the day-to-day leadership and implementation of the demonstration projects) about the overall success and consequences of the projects.

II. Follow-up Assessment Methodology

To provide the NCSC evaluator with information on which to base this follow-up assessment, SCAO designed the following two means of detailed demonstration project documentation:

³ See *Michigan Trial Court Consolidation: Final Evaluation Report* (NCSC, 1999), pp. 16-30.

⁴ See Michigan Justice Planning Commission, *Charting the Course for Michigan Justice: A Report to the Michigan Supreme Court*, p. 13 (May 30, 1995).

⁵ *Ibid.*, pp. 29-30.

- **Court Consolidation Demonstration Project Status Report and Checklist.** SCAO prepared a standard format for demonstration court officials to report on the current status of their projects. (See the introduction to Appendices A-H for more details.) That format called for discussion of each of the evaluation questions treated here, and it also included a 53-question checklist (for which responses are summarized in Appendix A).
- **Survey of Key Stakeholders.** To provide an additional perspective on the reports made by demonstration court officials, SCAO determined that it would be valuable to learn the views of “key stakeholders” – i.e., persons who have had some opportunity to observe their development, implementation, operation, and effects of the demonstration projects, but who at the same time have not been directly involved in the projects as judges, court officials, or court staff members. SCAO developed a 30-question survey instrument (see the introduction to Appendices I-Q for further details on the development of the survey instrument) and asked for responses in each demonstration court jurisdiction from (a) the local bar president; (b) the chairman of the board of county commissioners; (c) the prosecuting attorney; (d) the county clerk; and (e) the sheriff. Optional additional survey respondents could include local law enforcement officials, the local FIA director (involved in family court matters) and the local Department of Corrections supervisor. Survey respondents were to send their completed survey responses directly to the NCSC evaluator, and not to SCAO or demonstration court officials, so that the respondents might have a greater opportunity to answer the survey with candor. In July and August 2001, a total of 47 stakeholders responded to the survey. (See Appendices I and J for a grand summary of the survey responses, and see Appendices K-Q for summaries of responses from the stakeholders in each demonstration court jurisdiction.)

In addition to the information from the above sources, SCAO arranged for the NCSC evaluator to receive the following data:

- **SCAO Caseload Data.** For each demonstration court, SCAO provided data on caseload activity in 2000 and on trends in new filings, dispositions, and pending caseloads at the end of the year from 1993 through 2000. (See Appendices R-X.) The NCSC evaluator has augmented this information with caseload data for 1995 and 1997 that was included in NCSC’s 1999 evaluation reports on each of the original six demonstration projects. (The seventh demonstration project – Iron County – began in 1999 after the completion of the initial NCSC evaluation.)
- **Caseflow Management Data from Demonstration Courts.** The

demonstration courts provided NCSC with copies of reports on disposition times for cases in 1999, 2000, and the first half of 2001, as well as the age of cases pending in July 2001. (See Appendices AA-GG.) The NCSC evaluator augmented these data with caseflow management information that was included in NCSC's 1999 evaluation report on each of the original six demonstration projects.

- **Information on Demonstration Court Budgets, Revenue and Expenditures.** One of the core evaluation criteria in the 1999 evaluation report by NCSC involved financial management in the demonstration courts. (See Appendix Z.) To follow up on such matters, SCAO and the demonstration courts sent copies of recent budgets or revenue/expenditure reports to the NCSC evaluator. (See Appendices HH-NN.) To these materials, the NCSC evaluator added comparable information from the 1999 evaluation report on each of the original six demonstration projects.

In July and August 2001, the NCSC evaluator worked with SCAO and with trial court administrators in the demonstration courts to gather all of the information described above and presented as appendices to this report. In September 2001, the evaluator undertook a three-step analysis of that information. The first step was to study the specific assertions made by demonstration court officials in the consolidation checklists and status reports they completed (see Appendices A-H). The next step was to see how those assertions compared to the survey responses of key stakeholders (see Appendices I-Q). And the final step was to see whether such qualitative perceptions were corroborated by caseload trend data (Appendices R-X); caseflow management data (Appendices Y and AA-GG); or budget, revenue and expenditure data (Appendices Z and HH-NN). The results of that analysis serve as a basis for the assessment observations that follow in the remainder of this report.

III. Findings and Recommendations

In Part Two below, NCSC assesses the demonstration projects in terms of six major questions, each of which has different dimensions. NCSC also looks at the views of key stakeholders about the overall outcomes to date for the demonstration projects. That investigation leads to the following findings and recommendations.

A. General and Specific Assessment Findings. In general terms, and with some

qualifications, NCSC finds that the trial court consolidation demonstration projects have clearly done well, both in terms of meeting expectations established before their commencement and in the eyes of key stakeholders. This overall assessment finding is supported by the following more specific findings:

- ***All of the consolidated courts are generally making more efficient use of judicial and quasi-judicial resources under the demonstration projects than the pre-consolidation courts.***

All demonstration court judges have full authority to hear all cases within each court's jurisdiction, and under the demonstration projects they provide backup assistance to one another. While non-attorney referees and magistrates are somewhat limited in the allowable scope of their work, all such judicial officers in the demonstration courts have authority to handle all matters permitted by law, and the demonstration projects have resulted in more flexibility and crossover in their assignments. Jury management is now done centrally in all seven courts. All seven courts coordinate the schedules of judges and judicial officers, and almost all key stakeholders responding to a survey for this assessment indicate that court scheduling has improved under the demonstration projects. While results are far from uniform, and while two demonstration courts could not provide time guidelines data for this assessment, the demonstration courts are generally doing better than the pre-consolidation courts in terms of meeting statewide time guidelines. Steps to centralize the coordination of alternative dispute resolution (ADR) are not complete in all the demonstration courts.

- ***All of the demonstration projects have taken specific steps that have hastened the delivery of justice to families.***

Each demonstration court created a family division 18-24 months before the effective date of statewide legislation calling for the creation of family divisions in every judicial circuit. Among key stakeholders responding to a survey question for this assessment, 88% say that family divisions have had a positive impact under the demonstration projects. While two demonstration courts were unable to provide time

guidelines data, all of the other courts meet time guidelines as well or better under their demonstration projects than they did before consolidation. The demonstration courts have all improved their capacity to identify and coordinate related family cases, and 92% of key stakeholders with an opinion in response to the survey for this assessment agree that the same judge and/or caseworker handles related family matters.

- ***All of the demonstration projects have resulted in reduced net court operating costs or improved management of court revenues and operating costs.***

Six of the seven demonstration courts submit a single budget to their respective funding units, use a single operating budget, and use a single system for fiscal management and control. The seventh demonstration court has moved significantly in this direction for the budgeting of all its county-level court revenues and expenditures. All seven courts can allocate budget funds as necessary within their approved budgets, subject to local funding unit agreements. Six demonstration courts now have a single contract for indigent criminal defense services, and such services in the seventh court are provided by a public defender's office. All seven courts have developed improved means for fine and fee collection. As a result, all demonstration courts have increased revenues dramatically and exercised more control of expenditures, so that they have experienced either (a) an absolute reduction in net operating costs, or (b) a reduction in the relative extent to which court revenues fall short of expenditures.

- ***In almost all respects, the demonstration courts have reduced the size and age of pending inventory since the commencement of their court consolidation projects.***

Every demonstration court has done well under its demonstration project in reducing the size of its circuit-level pending inventory or keeping the size of that inventory under control in the face of increased workloads. Moreover, nine of the demonstration courts' eleven district-level reporting units have similarly done well with the size of their pending inventory. One demonstration court was unable to provide pending case age data for this assessment. As of July 2001, the age of pending felony cases in the two one-judge demonstration courts was troublesome, and a third court was not doing well with the age of its district-level criminal/traffic and general civil cases. Otherwise, however, the demonstration courts are doing well in keeping the age of pending cases within statewide time guidelines. To promote trial date certainty, all demonstration courts have increased their backup judge capacity.

- ***All of the demonstration projects have made effective use of technology and employed it productively to enhance scheduling and information exchange.***

In response to the survey conducted for this assessment, all key stakeholders expressing an opinion on the matter indicate that the demonstration courts have used court technology effectively. All demonstration courts now keep information for all case types on automated information systems. There is a single system or the systems are integrated in six of the seven courts. All systems in each demonstration court are compatible, with standardized operating systems, hardware platforms, and peripheral devices. Each court has some degree of single-point access for external users to obtain case-related information. In at least six of seven courts, some external agencies can exchange information electronically with the court, and all of the courts are working with external agencies to develop expanded capacity for electronic information exchange. All court staff members who need case-related information have access to it in each court. Technological innovations in each court are available to all divisions that can use them. While only two or three demonstration courts have automated functionality to coordinate scheduling, all courts use their computer capacity to assist scheduling coordination. As a

result, 94% of the key stakeholders expressing an opinion in response to a survey for this assessment say that court scheduling has improved in the demonstration courts.

- ***A strong chief judge leads each of the demonstration courts, generally operating through consensus decision-making.***

In the survey conducted of key stakeholders, 100% of those expressing an opinion indicated that the chief judge is a strong leader in the demonstration court with which they are associated. Though a number did not express an opinion, 84% of the stakeholders that did so indicated that the chief judge usually operates by consensus. Each demonstration court has a judicial council that is representative of its various divisions. In four of the seven courts, the judicial council is responsible for labor relations and personnel management. Each demonstration court's governing body represents the court as a single entity, and almost all external agencies and court users view the court as a single entity.

- ***Almost all key stakeholders view the demonstration projects very positively in terms of several important outcome measures for courts.***

In a survey of key stakeholders conducted for this assessment, all of those who expressed an opinion indicated (a) that court services to the public have improved; (b) that the quality of justice is equal to or better than what it was before consolidation; and (c) that the courts are more accessible to the public under the demonstration projects. In addition, 93% of the survey respondents who expressed an opinion perceived that court operations are more streamlined and efficient. Finally, 92% of those with an opinion said that each case type gets the attention that it deserves.

- ***Key stakeholders are virtually unanimous in their opinion that the demonstration projects have been successful, although they have differences of opinion in some courts about the degree of success.***

Only one stakeholder in the survey said that the demonstration project in his or her jurisdiction had been “not very successful.” In fact, 98% of the survey respondents who expressed an opinion (one respondent does not) said that the demonstration projects have either been “very successful” or “somewhat successful.” Stakeholders associated with three demonstration courts were unanimous in their opinion that the projects in those courts are “very successful.” For two other demonstration courts, there are more stakeholders who are enthusiastic about the projects and say they are “very successful” than there are who are less positive and consider them to be only “somewhat successful.” In two other courts, however, the stakeholders who rate the projects as only “somewhat successful” outnumber those who rate them more enthusiastically as “very successful.”

B. Recommendations. Based on the assessment reported here, NCSC has some high-level suggestions for steps that the Michigan court system should take in the future. Those suggestions are reflected in the following three broad recommendations.

Recommendation 1. Court system and legislative leaders in Michigan should recognize judicial leadership, demonstrated commitment to success among judges and court staff, and the support of key local stakeholders as necessary and essential ingredients in the successful implementation of any trial court consolidation effort and should take steps to ensure their presence in any effort to bring about further trial court consolidation in the state.

All of the demonstration courts – from the smallest to the largest – have succeeded in direct proportion to the extent that they have had strong leadership, have been able to create and maintain strong commitment to the objectives of court consolidation from both judges and court staff members, and had the support of key local stakeholders. This is not surprising, since leadership, commitment, and effective

communication are recognized as fundamental conditions for the successful management of a court or any other organization.⁶ The potential expansion of trial court consolidation is not universally supported by all trial judges in Michigan, however, and any effort to transplant it to a circuit lacking the requisite leadership, commitment to success, and support of local stakeholders may fail.

Recommendation 2. Michigan court system and legislative leaders should consider trial court consolidation to be highly desirable in all small rural circuits where it will result in the availability of an able full-time resident judge to hear all trial court matters.

The two smallest demonstration projects (those in Lake and Iron Counties) were formed in counties that previously had a part-time resident probate/juvenile judge, a circuit court judge serving two counties, and a district court judge serving two counties. In each demonstration court, the transition to having a very capable resident full-time judge hearing all types of case has been a clear success. This is in part attributable to the benefits of structural change, and in part attributable to judge leadership, the commitment of court staff members, and the support of county officials and other key local stakeholders. This suggests that a small county now served by part-time or “circuit riding” judges can be a prime candidate for a successful trial court consolidation effort led by an able judge with court staff commitment and support from key local stakeholders.

⁶ See Ronald Stupak, “Court Leadership in Transition,” 15 *Justice System Journal* (no. 2, 1991) 617; David Osborne and Ted Gaebler, *Reinventing Government: How the Entrepreneurial Spirit is Transforming the Public Sector* (New York: Penguin Books, 1993), p. 327; and Peter Drucker, *The New Realities: In Government and Politics/In Economics and Business/In Society and World View* (New York: Harper & Row, 1989), p. 84. See also, David Steelman, John Goerdt, and James McMillan, *Caseflow Management: The Heart of Court Management in the New Millennium* (Williamsburg, Va.: National Center for State Courts, 2000), pp. 88-101.

Recommendation 3. As a prelude to further trial court consolidation in other judicial circuits, state and local court leaders in Michigan should seek to implement aspects of the demonstration projects that have yielded many of their benefits. These aspects include (a) blanket cross assignment of local judges; (b) providing for felony pleas to be taken at the time of preliminary examinations; (c) centralization of jury management and of contracts for court-appointed counsel; (d) enhanced attention to compliance with court orders relating to fines and fees; (e) greater integration, communicability and compatibility of case information systems; and (f) greater coordination of local court budgets.

As the general and specific findings presented above indicate, the seven trial court consolidation demonstration projects have been quite successful. Most of the demonstration projects had successful features that would have improved local court operations even in the absence of formal consolidation of all courts in any given circuit. Efforts in each of Michigan's other judicial circuits to adopt such elements of demonstration project success as those listed in this recommendation should have at least two positive effects: (1) such efforts should allow court leaders and court staff to explore the dimensions of cross-court interaction and coordination that will provide a necessary basis for successful coordination if that step is taken; and (2) even without formal consolidation, local courts will benefit along with citizens and key local stakeholders from the improved effectiveness and efficiency that such changes will yield for local court operations.

PART TWO.

HAVE THE DEMONSTRATION PROJECTS MET THE SPECIFIC GOALS OF TRIAL COURT CONSOLIDATION IN MICHIGAN?

In this part of the report, NCSC appraises the demonstration courts in terms of the six major questions first presented above in the introduction to Part One. After the discussion of those six questions, NCSC addresses the opinions expressed by key stakeholders about the outcomes to date for the demonstration projects. These have to do with (1) court operations efficiency; (2) service to the public; (3) whether each case type receives the amount of attention it requires; (4) quality of justice; and (5) public access to justice. Finally, we consider the views of the key stakeholders about the success of the demonstration projects. Were they very successful? Somewhat successful? Not very successful? Stakeholders' opinions about relative success are considered in Section X below.

IV. Have the Demonstration Projects Promoted the Efficient Use of Judicial and Quasi-Judicial Resources?

One of the key arguments in favor of trial court consolidation is that it may permit greater flexibility in the assignment of judges and referees or magistrates to different kinds of cases. This would allow resources to be applied more effectively and efficiently on an as-needed basis to meet the demands of changing court workloads.⁷ In NCSC's initial evaluation of the demonstration projects, use of judges and quasi-judicial officers was the first evaluation criterion applied to the assessment of the demonstration courts.⁸ For purposes of this follow-up assessment, the dimensions of this question involve (a) timely disposition of cases; (b) whether judges and judicial officers are used to the full extent allowed; (c) ADR coordination; (d) jury administration; and (e) court scheduling.

⁷ See American Bar Association, *Standards Relating to Court Organization* (1990 edition) and *Standards Relating to Trial Courts* (1992 edition).

⁸ See *Michigan Trial Court Consolidation: Final Evaluation Report* (NCSC, 1999), pp. 20-21. For the 1999 evaluation findings under this criterion, see pp. 44-46 of that report.

A. Do judges and judicial officers dispose of cases within established time guidelines?⁹ In order to know whether a court is providing prompt justice, it is critical to know have a definition of what constitutes “prompt” justice. When six of the seven the demonstration projects were begun in 1996, Michigan was one of over 30 states with time guidelines for different case types.¹⁰

In their reports on the current 2001 status of the demonstration projects (see Appendices B-H), the representatives of each demonstration court report that they doing well in terms of meeting statewide guidelines for the timely disposition of cases.¹¹ One demonstration court indicates that it has eliminated its pre-project circuit court backlog, and that the time from arrest to receipt of a guilty plea in felony cases has been reduced from an average of three months to an average of 4-6 weeks. (See Appendix B.) Another reports that consolidation has allowed it to absorb a 5,000-case increase in filings from 1996 to 1998, but that further caseload growth would create the risk of not being able to meet time guidelines (see Appendix E). Fortunately, total new filings in that court in 1999 and 2000 were lower than in 2000. (See Appendix U.)

None of the respondents in the survey of key stakeholders indicated that cases are moving more slowly through the system under the demonstration projects, and 89% (41 of 46¹²) said they perceive that cases are moving faster. (For more details by demonstration court, see Question 4 in Appendix I.) Among the different categories of key stakeholders, there were two sheriffs, one county clerk, and two other respondents who said that cases move through the system at about the same pace as before. In

⁹ For separate discussion of whether family cases have been reduced within time guidelines under the demonstration projects, see subsection A in Section V.

¹⁰ On time standards in general and the number of states with time standards, see David Steelman, John Goerdts, and James McMillan, *Caseflow Management: The Heart of Court Management in the New Millennium* (Williamsburg, Va.: National Center for State Courts, 2000), pp. 105-114.

¹¹ Reasons given for their success as a result of their projects include (1) scheduling orders or structure to assure that guidelines are met (see Appendix C); (2) the use of firm trial dates, immediate arraignment of felony cases at the time of the preliminary examination, and use of alternative dispute resolution (ADR)(see Appendix D); (3) the simple availability of a resident full-time judge (see Appendix F); careful monitoring of caseload statistics to observe compliance with time requirements (see Appendix G); and cross-assignment of all judges and judicial officers in a multi-county consolidated court (see Appendix H).

¹² There was one survey respondent who did not reply to this question.

contrast, *all* of the county commissioners, county administrators, prosecuting attorneys, and bar leaders said that cases move faster. (See Question 4 in Appendix J.)

SCAO data on the average number of circuit court and district court cases beyond time guidelines in the demonstration courts shows mixed trends between 1995 and 2001. (See Appendix Y.) The number of circuit court cases beyond the guidelines showed a desirable trend in six of the seven demonstration courts. But trends were clearly positive for only three district court jurisdictions.

Appendices AA-HH show times to disposition and pending case age for five of the seven demonstration courts in comparison to time guidelines. In two of the demonstration courts, such data could not be provided for this assessment. (See Appendices BB and GG.) In two other courts (see Appendices EE and FF), dispositions were not fully available for 1995 and 1997 but were available for 1999 and 2000 – probably as a result of improved capacity for recordkeeping as a consequence of the demonstration projects in those jurisdictions. None of the courts was able to meet the statewide time guidelines for all its cases, either before or after commencement of the demonstration projects. In comparison to statewide time guidelines within which 100% of cases are to be disposed, two demonstration courts had a higher percentage of circuit court felony and general civil cases disposed within guidelines in 2000 than in 1995, and the percentage of their dispositions meeting guidelines for district court criminal/ traffic and general civil cases were about the same in 2000 as in 1995. (See Appendices AA and FF.) A third court was able to keep its percentage of dispositions meeting time guidelines at about the same level as in 1995, while absorbing an increase of several thousand new cases from 1995 to 2000. (See Appendices U and DD.)

Overall, the time guidelines reports suggest that the demonstration courts have done better in some respects under consolidation, and that there were few (if any) areas of poorer performance after consolidation than before it. Yet as a whole the 2000 and 2001 results do not appear to be dramatically different from those in 1995.

B. Are judges and judicial officers used to the full extent allowed? In each demonstration project, the fact of consolidation has meant (a) that courts served by several full-time judges and judicial officers would potentially be in a position to pool

those resources and allocate them as needed to meet the demands of the court workload; or (b) that a court formerly served by judges shared with other counties would have a resident full-time judge available each day of the work week to address the court's workload. The question posed here has to do with the extent to which the demonstration courts have actually used their judicial and quasi-judicial resources as broadly as allowed by law.

For this follow-up assessment, court officials in each demonstration project answered questions in a trial court consolidation checklist. In each demonstration court, without exception, their responses were that:¹³

- A single class of judges was created for each trial court.
- Judges of each trial court have authority to handle any case within the jurisdiction of the court.
- All judges receive the same compensation.
- Judicial officers have the authority to handle all matters allowed by statute.

In the demonstration projects, all judges performing similar duties receive the same compensation. In four of the demonstration projects, judges sitting in specialized divisions are periodically rotated among divisions. (There are two one-judge demonstration projects, and in another project the judges do not rotate assignments.)¹⁴

The 2001 status reports for the demonstration projects show the manner in which the courts seek to optimize the use of judge and judicial officer resources. (See Appendices B-H.) It appears to be a near-universal practice among the demonstration courts for judges to serve as backup for one another as available on a day-to-day basis. In the one-judge courts (see Appendices D and F), there is an arrangement with circuit court and district court judges in one or more nearby counties for backup support. Judges and judicial officers in some demonstration courts rotate on a weekly basis to hear such matters as delinquency cases with detained juveniles (see Appendix C) or criminal arraignments (see Appendix G). Consolidation means more flexible assignment of judges in one demonstration court (see Appendix E), and cross-assignment of both judges and

¹³ See Appendix A, summary of responses to Questions 3-6. Such uniformity was mandated for all demonstration courts by the Michigan Supreme Court.

¹⁴ See Appendix A, summary of responses to Questions 7 and 8.

judicial officers across counties in a multi-county demonstration court (see Appendix H).

In one project, all magistrates, referees, and juvenile officers share night call-in duties across counties (see Appendix H). In another, the family and juvenile referees serve as backup to the district court magistrate, and the three share daily responsibilities as well as weekend duties (see Appendix E). In this court, however, they are somewhat limited in the scope of their duties and interchangeability by the fact that none are attorneys.

In the survey of key stakeholders, they were asked if the cross-assignment and coverage of court cases by judges and judicial officers seems to be more efficient under the demonstration projects. (See Question 1 in Appendices I-Q. About 89% of the survey respondents (39 of 44, with 3 not responding) indicated that it does appear to be more efficient. (See Appendices I and J.) Only one respondent said that he or she perceives it to be less efficient, and four said that they consider it to be about the same as before consolidation.

A related question addressed in the survey of key stakeholders is whether they perceive judges and judicial officers to be knowledgeable about the various matters that they handle (see the summary of responses to Question 2 in Appendices I-Q). There were two respondents who had no opinion on this question, and there was one who did not answer it. All of the other 44 respondents indicated that judges and judicial officers appear to be knowledgeable.

C. Does the court centrally coordinate its ADR programs? In the past 20 years, such different kinds of alternative dispute resolution (ADR) programs as mediation, arbitration, early neutral case evaluation, summary jury trial, community dispute resolution, and private “rent-a-judge” dispute resolution have proliferated in American courts. Such programs are usually introduced to reduce backlogs, to free up judicial resources, to expedite case dispositions, to reduce costs, or to promote litigant satisfaction.¹⁵ To increase the likelihood that such goals for ADR might be achieved, it is desirable for a court to exercise appropriate coordination of the different kinds of ADR that may be available for the cases before it. To date it appears, however, that steps to

¹⁵ See Nancy Welsh and Barbara McAdoo, “The ABC’s of ADR: Making ADR Work in Your Court

exercise centralized coordination of ADR in the Michigan trial court consolidation demonstration projects have been incomplete.

Demonstration project officials were asked to consider the matter of centralized ADR coordination in their responses to the court consolidation checklist that they answered for this assessment. (See Question 44 in Appendix A.) They indicated that management and coordination of ADR programs is centralized and carried out by the ADR coordinator under direction of the chief judge in only four of the seven demonstration courts.

More details about the handling of ADR programs are given in the demonstration courts' 2001 status reports (see Appendices B-H). Four courts (see Appendices C, D, G and H) each have a specific person designated as ADR clerk to process and schedule cases referred to ADR programs. In a fifth court (see Appendix E), a community service coordinator has been appointed with responsibility for ADR, and the court is developing an ADR plan.

In the survey of key stakeholders conducted for this assessment, they were asked if the demonstration courts in their respective jurisdictions make effective use of ADR options. (See the summary of responses to Question 19 in Appendices I-Q.) While only one survey respondent expressed the opinion that ADR options were *not* being well used in his or her jurisdiction, there were 20 respondents who had no opinion about the question. No other question in the survey received as many "no opinion" responses. Whatever else it may indicate, this may suggest that dealing with ADR programs has been a matter of lower priority than other issues in at least some of the demonstration projects.

D. Is a single system used for jury administration? Management of jury selection to expand the pool of citizens available for jury duty and reduce the cost of operating a jury system is an important means for courts to serve the public, maintain public faith in government's ability to provide justice, and protect the integrity of the judicial system.¹⁶ Courts now have available a broad range of well-tested methods for

System," 37 *Judges' Journal* (no. 1, winter 1998) 11, at 12.

¹⁶ See Henry S. Dogin and David I. Tevelin, "Jury Systems of the Eighties," 11 *University of Toledo Law Review* (1980) 939.

effective and efficient jury management.¹⁷ A clear potential benefit of trial court consolidation is its potential to promote greater consistency and permit cost savings through greater economies of scale by allowing for the centralization of jury management. This appears to be a clear success in each of the demonstration projects.

In response to Question 14 in the court consolidation checklist, the court officials in all seven demonstration projects indicated that jury management is now done centrally for the trial court. (See Appendix A.) The status reports by demonstration court officials give more details. At least one demonstration court has had centralized jury administration since 1990 (see Appendix C), so that savings from better jury management were realized well before commencement of the demonstration project. Centralization has reduced jury costs (see Appendices D and E). In one project, staff members are learning to use the court's computerized system (see Appendix D). Officials in a multi-county demonstration project report that having one central jury coordinator working under the chief judge to deal with jury management for all divisions and all counties works well (see Appendix H).

E. Does the court have an established scheduling policy and coordinate all judicial schedules? One of the difficulties presented by having separate trial courts serve a single area is that each such court might have its own unique approach to scheduling matters, so that those appearing in or working with different courts must have to remember and accommodate to different practices among the different courts. An even worse problem arises if a lawyer or other participant is involved in proceedings in different courts and either (a) must deal with competing obligations to appear in more than one place at once, or (b) takes advantage of the different courts by playing one court against the other in terms of scheduling opportunities.¹⁸

Because individual judges are often very independent in their attitudes and circumstances, the kinds of scheduling problems that can arise when there are separate trial courts serving an area are not necessarily solved simply by having those courts

¹⁷ See G. Thomas Munsterman, *Jury System Management* (Williamsburg, Va.: National Center for State Courts, 1996).

¹⁸ Court technology can be used to assist efforts to coordinate scheduling. For further discussion of its use

consolidated. To take advantage of consolidation, it is desirable for the judges and court managers to develop greater consistency in scheduling policies and coordination of scheduling activities for judges and judicial officers.

In their responses to the court consolidation checklist, representatives of all seven demonstration projects indicated that scheduling activities and judicial calendars are centrally coordinated. (See summary of responses to Question 11 in Appendix A.) They give more details in their status reports (Appendices B-H). While there are variations from one court to the next, all of the demonstration projects appear to have resulted in substantially improved coordination of scheduling among the judges.

Two demonstration projects involve having one full-time resident judge, so that scheduling in those counties is simplified (see Appendices D and F). Coordinated trial scheduling in one three-judge demonstration court has demonstrably enhanced trial-date certainty (see Appendix B). Another three-judge demonstration project has all judge and magistrate scheduling done by one person, which has removed scheduling conflicts and improved communications with the sheriff's department over prisoner transport (see Appendix E). A multi-county demonstration project has one master calendar managed in the court administration office to coordinate all judicial schedules for case processing, courtroom assignments, and judicial leaves of absence (see Appendix H).

In still another demonstration court, the criminal division has a central assignment department for all case assignment and scheduling. Judicial secretaries serve as assignment clerks for the judges in this court's civil division and family division, but each division follows a standard scheduling format and has block scheduling for routine matters. (See Appendix C.)

Having several different court locations has made scheduling coordination difficult for the seventh demonstration court. A central assignment clerk coordinates all scheduling in the county courthouse, however. Court officials believe that optimal scheduling coordination might not be possible until all court activities are carried out in a single facility. (See Appendix G.)

Respondents to the survey of key stakeholders support the conclusion that

for this purpose in the demonstration projects, see below, subsection H of Section VIII.

consolidation appears to have improved court-scheduling practices. (See summary of responses to Question 16 in Appendices I-Q.) About 87% of all respondents agreed that scheduling has improved. (See Appendices I and J.) There were four respondents who disagree with that assertion, however, and two of them were stakeholders in a single demonstration project. (See Appendix I.) Those who said that scheduling has not improved included one sheriff, two prosecuting attorneys, and one private bar leader. (See Appendix J.)

V. Have the Demonstration Projects Hastened the Delivery of Justice to Families?

In recent years, there has been considerable discussion about the effect on families of appearing in separate courts for matters arising from the same family dynamics (e.g., abuse and neglect proceedings in one court or courtroom, while divorce, custody or support enforcement matters are pending in another court or courtroom). In response to such discussion, the Michigan Supreme Court provided that all demonstration projects must “blend into one general venue legal issues affecting the family that are primarily family law, domestic relations, juvenile court abuse and neglect actions and that are primarily social policy oriented in nature.”¹⁹

The subsequent enactment of “family court” legislation (1996 Michigan Public Act 388) by the Michigan State Legislature had some effect on the operation of demonstration projects with regard to family matters. Under this act, the jurisdiction of all circuit and probate courts was to be reorganized, and a “family division” was created in every circuit court effective January 1, 1998. As a result of that legislation, other trial jurisdictions in Michigan had further reason to observe whether the demonstration projects begun 18-24 months earlier would hasten the delivery of justice in family-related matters.

Creation of a “family division” was thus a critical feature of the demonstration projects. Management questions to be addressed in this assessment include timeliness and the court’s ability to identify and coordinate related family cases.

¹⁹ Michigan SCAO, Memorandum to all trial court judges, from John D. Ferry, Jr., “Court Consolidation

A. Are family cases resolved within established time guidelines? In 1996, when all but one of the demonstration projects were begun, Michigan was one of 30 states with time guidelines for divorce cases, and one of 20 states with juvenile delinquency standards. Since the passage of the federal Adoption and Safe Families Act of 1997, virtually all states have introduced statutory standards for time from removal of a child from the home to permanency hearings in child protection cases and to the filing of petitions to terminate parental rights where warranted.²⁰

In the survey of key stakeholders conducted for this assessment, they were asked what kind of impact the establishment of a family division has had on the demonstration court with which they are familiar. (See summary of responses to Question 7 in Appendices I-Q.) Of those who responded to this question (four did not), 88% expressed the belief that the impact was positive. Only one respondent said that the impact was negative, and four people (two from one demonstration court) said that it has had little or no impact. (See Appendix I.) The respondent who said that the impact was negative was a county commissioner. Those who said that a family division had little or no impact included a county administrator, a county sheriff, a prosecuting attorney, and a private bar leader. (See Appendix J.)

The status reports for all but one demonstration court indicate that they are in compliance with the time guidelines for family cases. In one court, scheduling orders are entered for divorce cases once an answer is filed: cases without children are set for trial within 3-4 months, while those with children are set for trial within 7-8 months. (See Appendix C.) Another court reports that the Friend of the Court (FOC) docket is coordinated with the Trial Court docket to make sure that cases are expedited and adjournments are avoided in custody, support, and parenting time cases. (See Appendix E.)

Two courts have recently made significant changes in their processing of juvenile cases. One of these courts established a juvenile justice task force in 1999, which made recommendations for workflow changes that would reduce the time from filing of a

Demonstration Project Description and Application Requirements” (November 9, 1995), Attachment, p. 2.

²⁰ See Steelman, Goerd, and McMillan, *Caseflow Management: The Heart of Court Management in the New Millennium* (NCSC, 2000), pp. 110-114.

petition to juvenile adjudication from six months to 28 days. (See Appendix C.) The second court indicated in its 2001 status report that it is *not* now in compliance with time guidelines for juvenile cases. To deal with this problem, it introduced a major reorganization of its juvenile case practices and procedures in March 2001. (See Appendix G.)

The qualitative assertions by key stakeholders and demonstration court officials can be viewed in light of time guidelines data from each demonstration court. (See Appendices AA-GG.) While two demonstrations were not able to provide time guidelines data on disposed divorce or juvenile cases (see Appendices BB and FF), the time guidelines reports otherwise generally support the positive qualitative perceptions of demonstration court officials and key stakeholders about the timeliness of dispositions in family matters.

One single-judge demonstration court has done consistently well in meeting time guidelines for disposed divorce and juvenile cases from 1999 through the first half of 2001. (See Appendix CC.) Three other courts appear to have improved timeliness for divorce cases between 1995 and the first half of 2001, while also doing as well or better with juvenile cases. (See Appendices AA, DD, and EE.) The final court seems to have had moderately better timeliness under the demonstration project for divorce cases without children, but no better timeliness for those without children. Its timeliness for juvenile cases was reasonably consistent in 1999, 2000, and the first half of 2001. (See Appendix GG.)

B. Is the court able to coordinate adjudication of related family cases?

Courts across the country are finding that cases involving children and families are increasing not only in volume, but also in complexity, with family members often involved concurrently (and without the aid of counsel) in multiple court forums. In such circumstances there is a strong need for coordination, which, as one team of researchers has written, “permits intervention earlier in the process, prevents courts and agencies from working at cross-purposes, and provides a consistent plan of service that should increase the likelihood of success.”²¹

²¹ Carol Flango, Victor Flango, and H. Ted Rubin, *How are Courts Coordinating Family Cases?*

The court consolidation status reports discuss the means by which demonstration courts have sought to coordinate these cases. (See Appendices B-H.) In the single-judge courts, of course, one judge hears all such cases. (See Appendices D and F.) In the three-judge courts, the family judge typically hears related family matters. (See Appendices B and E.) In two of the courts with more than three judges, related family cases are set before the same judge. (See Appendices C and H.) In the third court with more than three judges, related family cases are usually assigned to one judge at one location, but efficiency in such assignments is hampered because files for cases may be at different court locations. (See Appendix G.) One of the demonstration courts has created a “family court specialist” position (combining FOC caseworker and juvenile probation officer functions) to provide more of a “service center” approach to coordinating family cases. (See Appendix E.)

In the survey of key stakeholders for this assessment, one question was whether the same judge or caseworker handles cases involving related family matters. (See Question 6 in Appendices I-Q.) Nine respondents had no opinion on this question. Of the remainder, 92% (35 of 38) agreed that the same judge or caseworker does in fact handle related family matters, and all three respondents who indicated that this is *not* the case were from the same county. (See Appendix I.)

1. Does the court have a clear definition of "related family cases"? The most common situation for having related family cases arises when there is an open divorce case with minors and a concurrent neglect or abuse proceeding involving the same parents and children. But one mother may have children with different family names because different fathers sired them, and cases may involve stepparents, stepsiblings, grandparents, aunts and uncles, or a custodial parent’s “significant other” or paramour, so there is a need to define what is a “family.” Moreover, is a family case definitively concluded a decade ago a case that is “related” to a newly filed divorce, juvenile, domestic violence, or probate estate matter? And if a court has an open family matter pending, what coordination (if any) should the court do with the case of a family member who is then arrested for drunk driving? What coordination (if any) should be done

(Williamsburg, Va.: National Center for State Courts, 1999), pp. 1-2.

between civil family matters and criminal domestic violence cases? Such questions as these indicate that there can be differences of opinion and definition of what are considered to be “related” family cases.²²

The demonstration courts do not all appear to have a clear definition of “related family cases.” Two of the status reports by the demonstration courts do not provide a definition. (See Appendices B and F.) Two reports define them as concurrent family matters with the same family, such as when a neglect review occurs at the same time as a divorce custody dispute. (See Appendices D and G.) Another implies that they are domestic relations, juvenile or probate estate cases with the same family parties. (See Appendix C.) Two courts provide more detailed definitions:

- “Related” family cases are all domestic relations, neglect/abuse, delinquency, PPO, and criminal cases involving families before the family court, or having matters in another division while a family court matter is pending. (See Appendix E.)
- “Related” family cases those involving delinquency, child protection, and divorce with children, as well as domestic violence and minor-in-possession cases, which are scheduled before the family division. (See Appendix H.)

2. Can the court readily identify related cases? In the court consolidation checklist they completed for this assessment, representatives of all the demonstration courts indicated that they have the capability to identify matters involving the same family and assign them to one judge and/or caseworker, (See summary of responses to Question 12 in Appendix A.)

Demonstration courts describe their methods to identify related cases in their status reports. (See Appendices B-H.) In one court this is done by file clerks for domestic relations, juvenile and estate cases, who use the court’s automated case information system to find related cases. (See Appendix B.) In a second court, juvenile officers check with the Friend of the Court when new neglect, abuse, dependency, or delinquency cases are filed to see if there are any related matters, and support payments are intercepted if there are out-of-home placements. (See Appendix D.) In another court,

²² See David Steelman, Frederick Miller, Adam Fleischman, and Shaun Zallaps, *Children’s Docket Assessment: Multiple-Forum Appearances by Children and Families in Michigan Trial Courts* (Denver, Colo.: National Center for State Courts, Court Services Division, 1997).

the assignment clerk responsible for scheduling all the judges' cases is responsible to identify related matters. (See Appendix E.) Automation aids identification in two other courts – in one it is the single case management system (see Appendix G), and in the other it is the court's master case index (see Appendix H).

VI. Have the Demonstration Projects Reduced Operational Costs?

In the initial NCSC evaluation of the original six demonstration projects, Core Criterion 3 involved the cost-effectiveness of court operations, while Core Criterion 8 involved court budgeting.²³ The other five questions in this part of the follow-up assessment address "effectiveness" – the extent to which the other goals of the demonstration projects have been achieved. The question here involves the impact of the demonstration projects on *cost* of operations in the courts where they were implemented. What effect have the demonstration projects had on court budgeting, revenues, and expenditures? This is obviously a critical issue for state and local funding authorities.

In the survey of key stakeholders conducted for this assessment, they were asked if the demonstration courts are now more cost-effective to operate. (See responses to Question 9 summarized in Appendices I-Q.) Over one-third of all respondents (16 of 47) expressed no opinion on this question. Of the remainder, 90% (28 of 31) agreed that the demonstration courts are now more cost-effective. There were only two demonstration courts, however, for which all of the survey respondents expressed agreement (as opposed to disagreement or offering no opinion). (See Appendix I.)

Among specific categories of survey respondents, county commissioners and county administrators were most likely to have an opinion, while "no opinion" responses were more frequent among other respondents (who are presumably less concerned on a day-to-day basis with the costs of court operations). Those disagreeing with the assertion that the trial court is more cost-effective to operate included one county commissioner, one county clerk, and one county sheriff. (See Appendix J.)

²³ See *Michigan Trial Court Consolidation: Final Evaluation Report* (NCSC, 1999), pp. 21-24, 30, 47-49, and 54.

A. Have the net aggregate costs of court operations been reduced or managed more efficiently? One source of information on this question is the set of status reports and court consolidation checklists prepared by demonstration court officials for this assessment. (See Appendices A-H.) Another source is the budget, revenue and expenditure data for the demonstration courts. (See Appendices Z and HH-NN.) With some qualifications, and with variations from one demonstration court to the next, this information appears to support a conclusion that the implementation of the demonstration projects has indeed resulted in either a reduction in net court operating costs or an improvement in the management of court operating costs.

One demonstration court has operated substantially under budget since 1996, with 1999 circuit court costs actually less than 1995 costs despite salary increases. The child care fund (one of the more volatile and unpredictable areas of court expense) was under budget for three consecutive years. The consolidated court appears to have consistently exceeded budgeted revenues and kept expenditures below budget. (See Appendices B and HH.)

For a second court that served as a pilot court under the state court system's "21st Century" initiative, the implementation of a judicial council, judicial cross-assignments, jury consolidation, and scheduling improvements in 1990 meant a reduction in operating costs well before the implementation of consolidation in 1996. Demonstration court officials report that budget consolidation and the creation of civil, criminal, and family divisions have resulted in more efficient use of resources and more effective services to stakeholders. A comparison of revenues and expenditures from 1995 (before consolidation) through 2000 (after over four years of consolidation) shows that court expenditures still exceeded court revenues 2000, just as they did in 1995. But revenues increased by 69% in that time period while expenditures increased by only 43%, so that the amount by which expenditures exceeded revenues, which constituted 45% of the total expenditures in 1995, was only 35% of total expenditures in 2000. (See Appendices C and II.)

In a third demonstration court, officials report that costs for court operations have not yet been reduced. Before the demonstration project began, however, some court

employees had to take work home that could not be completed during the regular working hours. Improvements in technology and court procedures under the demonstration project have reduced staff workloads to a manageable level. Staff members can now work on important matters that they did not have time to do before. As a result, collections have increased for all case types. Data on expenditures show that court expenses in 2000 were 10% higher than they were in 1998. Yet revenue in 2000 had increased as well, so that it exceeded expenses by 17%. (See Appendices D and JJ.)

In the fourth demonstration court, revenue and expenditure data show that the net operating costs for the consolidated trial court in 1998, 1999, and 2000 were in a much more positive posture than they were in 1995. Total actual court expenditures increased by 73% from 1995 to 2000. Yet court revenues nearly tripled during that same time period. As a result, court revenues (which were 41% lower than expenses in 1995) were nearly equal to total court expenditures (falling short by 3%) in 2000. (See Appendices E and KK.)

Budget changes under the fifth demonstration project have allowed the court and the county to manage expenses more efficiently through better management of line items, less duplication of expenditures, and better cost analysis. Having a contract for appointed counsel has reduced expenditures for indigent defense by 10% each year. Payments to contiguous counties for contractual services have been reduced by about 80% as a result of the demonstration project. In addition, the court has increased collections. (See Appendices F and LL.)

Earlier participation as a pilot site for the statewide “21st Century” court improvement project meant that the sixth demonstration court had already achieved certain financial management improvements in 1990 that other demonstration courts did not experience until after the commencement of the demonstration projects in 1996 or 1999. Under this project, the elimination of redundancies in court administrative structure was accomplished through the “early retirement” of several administrators. While this initially meant a loss in institutional memory and the loss of a clear reporting structure, demonstration project officials report that court operations are now managed more efficiently and effectively. For county-level courts in this jurisdiction, court

revenues in 2000 were 54% higher than they were in 1994, while expenditures had increased by 47%. As a result, the relative extent to which expenditures exceeded revenues in 2000 (30% of total expenditures) was smaller than it was in 1994 (33% of total expenditures). This demonstration court also has two separate locally funded district court operations, and in those courts revenues in 2000 exceeded expenditures by considerably more than they did in 1995. (See Appendices G and MM.)

For the final demonstration project, the impact of centralized budgeting, centralized indigent defense contracts, and central collection procedures has been to reduce net court operating costs sharply. In the first four years of demonstration project operation, net operating costs were about \$1.5 million lower than in the four years immediately preceding the implementation of the demonstration project. Court operations have been managed more efficiently, not only through centralization of indigent defense contracts, but also through centralized purchasing and the introduction of a single health and retirement plan for all court staff members. (See Appendices H and NN.)

B. Does the court submit and administer a single budget? In their responses to the court consolidation checklist, court officials in six of the seven demonstration projects indicated that

- A single budget is prepared and submitted to the funding unit that reflects the needs of all aspects of the court's operations.
- Court expenditures (including personnel and capital costs) are managed under a single operating budget.
- The court uses a single system for fiscal management and information.

In all seven courts, it is the chief judge or his or her designee who presents the court budget to funding authorities. Moreover, uniform procedures are established in all seven courts for payroll accounting, disbursements, purchasing, presentation and pre-audit of vouchers, and audits. (See Questions 20-22 and 24-25 in Appendix A.)

The status reports prepared by demonstration court officials give further details about budgeting in each court. (See Appendices B-H.) Each of the two single-judge

demonstration courts has a single budget. (See Appendices D and F.) Centralized budgeting has been a successful feature of the multi-county demonstration project. (See Appendix H.) Opposition from the county treasurer before the 1997 budget year at first prevented the presentation of a consolidated budget by another demonstration court. But for the 1998 budget year the court submitted a consolidated budget that was approved by the county commissioners. (See Appendix E.) For a fifth demonstration court, preparing a consolidated budget in 1999 for 2000 was a priority, and preparing a unified budget for 2001 was a priority in 2000.

Each year since 1990, the then-separate courts in the sixth demonstration jurisdiction presented their budgets together to the county funding unit. Because of county budget requirements and the complex nature of labor agreements, the consolidated trial court prepares several budgets. The judicial council members and division administrators or managers prepare their budgets but attend the county budget hearing together. (See Appendix C.)

Having three separate funding units stands in the way of having a single budget in the seventh demonstration court. Yet for 2002-2003, all county-funded divisions of the demonstration court will operate within a single budget, with the two municipally funded units operating under separate budgets. (See Appendix G.)

C. Can the court reallocate budget funds between various divisions within the funding unit agreement? Demonstration project officials in all seven courts indicated in the court consolidation checklist that their respective consolidated trial courts are each authorized to allocate funds as necessary within the approved budget and subject to local funding unit agreements. (See Question 23 in Appendix A.) One of the courts indicates in its status report that court leaders cannot yet assess how budget reallocation among divisions would occur, since it will not have a single budget for all county-funded divisions until 2002-2003. (See Appendix G.)

D. Does the court maintain single contracts for services, such as for indigent counsel? Since the commencement of their demonstration projects, five courts have introduced single or centralized contracts for the provision of indigent criminal defense services, which have reduced appointed counsel costs. (See Appendices B, D, E, F, and

H.) Another court has had a contract for indigent defense services in its criminal division for years, well before the commencement of the demonstration project. In 2001, this court entered into an indigent defense contract for abuse and neglect cases, resulting in significant savings of clerical time that was previously spent trying to contact attorneys to appear in court on short notice. (See Appendix C.) In the final demonstration court, most indigent defense services are provided by the public defender's office, with conflict counsel appointed from a list of all eligible attorneys. (See Appendix G.)

E. Can the court enforce its judgments, including financial obligations, effectively? According to the responses by court officials to the court consolidation checklist, all seven demonstration courts have developed an overall philosophy and a coordinated approach for the enforcement of unpaid fines, fees, and costs. In six of the seven courts, there is a centralized process for receiving payment of fines, costs, and fees. Five of the seven demonstration courts (a) have a single information system for collections and collections enforcement; and (b) allow payment of fines, costs, and fees for any case type either at any court location or at a central payment office. Only four of the seven courts have uniform policies regarding waivers and suspension of financial obligations. (See Questions 26-30 in Appendix A.)

The courts use different approaches to enforcing judgments and financial obligations. One court has had an enforcement officer since its participation as a "21st Century" project site, and this officer is dedicated to collection of fines, fees and restitution. (See Appendix C.) In another court, a central collections office was created to focus on collections in traffic, misdemeanor and felony cases. (See Appendix F.)

In a third court, a single collections officer handles wage assignments and bank account assignments for all three counties served by the court, once compliance checks indicate that other collections efforts have been exhausted. Collections policies and "date certain payment" are enforced by judges and court staff, as well as by the Department of Corrections. The court uses Internet "skip" software to locate non-payers. (See Appendix H.)

Another court has created an expectation of immediate payment of fines and costs,

which has substantially reduced clerk's office work by reducing multiple partial payments. The court also has regular times for show cause hearings for FOC and juvenile cases. Enforcement of court orders is emphasized in all divisions of the court. (See Appendix D.)

A financial reporting procedure for child support cases has been implemented in a fifth court, which has substantially increased its collection of arrearages. The court also demands payment of fines and fees at the time of criminal sentencing, which has increased collections. The court holds show cause hearings in all areas to enforce its judgments. (See Appendix E.) District court level staff members in a sixth court all use the same case management system to monitor the collection of judgments and financial obligations. (See Appendix G.)

VII. Have the Demonstration Projects Reduced the Age and Size of Pending Inventory?

Keeping current with its incoming caseload is an important element of optimal performance by a trial court.²⁴ The size of a court's pending inventory is a key measure of the effectiveness of its caseload management efforts. National research shows that the size of a court's inventory of pending cases, in relation to the number of dispositions per year, is strongly associated with delay. Slow courts are almost always "backlogged" courts.²⁵

A. Is the age of pending cases within established guidelines? Five of the seven demonstration courts provided NCSC with reasonably complete data for this assessment about the age of their pending cases. (See Appendices AA-GG.) One court was not able to provide any pending case reports whatsoever. (See Appendix FF.) Only one court provided data on the age of its pending juvenile cases as of June or July 2001.

²⁴ See Commission on Trial Court Performance Standards, *Trial Court Performance Standards and Measurement System Implementation Manual* (Washington, D.C.: US Government Printing Office for Bureau of Justice Assistance, 1997), Standard 2.1.

²⁵ See Barry Mahoney, et al., *Changing Times in Trial Courts. Caseload Management and Delay Reduction in Urban Trial Courts* (Williamsburg, Va.: National Center for State Courts, 1988), p. 195; see also, John Goerdts, Chris Lomvardias, Geoff Gallas and Barry Mahoney, *Examining Court Delay. The Pace of Litigation in 26 Urban Trial Courts, 1987* (Williamsburg, Va.: National Center for State Courts, 1989), pp. 36-39, 42.

The pending case data suggest that in general the demonstration courts are doing reasonably well in their efforts to avoid having many pending cases older than the time guidelines. Some exceptions to this should be highlighted. As of July 2001, the two one-judge demonstration courts (with relatively small caseloads) had a higher percentage of their pending felony cases beyond the guidelines than might be desirable. (See Appendices CC and EE.) And for another demonstration court, the percentage of its pending district division criminal/traffic and general civil cases that were beyond time guidelines as of July 2001 was much higher than that in any of the other demonstration courts. (See Appendix GG.)

One of the courts indicates in its court consolidation status report that under the demonstration project it has reduced the age of pending cases despite increases in new filings. (See Appendix B.) Its time guidelines pending case age data for July 2001 (see Appendix AA) support this assertion:

<u>Pending Case Category</u>	<u>Percent Within Time Guidelines</u>
All Circuit Civil	100%
Felonies	99%
Divorces Without Children	98%
Divorces With Children	96%
Juveniles In Custody	100%
Juveniles Not In Custody	100%
District Criminal/Traffic	93%
District General Civil	98%

A second court states in its status report that monthly reports are produced and monitored regularly by judges and assignment clerks to ensure that there are no cases on “open adjournment” and that they are scheduled within time guidelines. (See Appendix C.) The court provided computer printouts to NCSC only for its pending civil cases with more than \$25,000 at issue, showing that 95% of these cases were within applicable statewide time guidelines as of June 30, 2001. (See Appendix BB.)

A third court reports that all cases are set for a next action date at each hearing and are resolved within established time guidelines, except in circumstances beyond the court’s control. (See Appendix D.) The time guidelines pending case age for June-July 2001 in this court (see Appendix CC) show that it is doing well with all major case types

except felonies:

<u>Pending Case Category</u>	<u>Percent Within Time Guidelines</u>
All Circuit Civil	100%
Felonies	75%
Divorces Without Children	100%
Divorces With Children	90%
District Criminal/Traffic	93%
District General Civil	96%

The status report for a fourth demonstration court simply states that the court keeps its pending inventory within time guidelines. (See Appendix E.) This assertion is generally support by its time guidelines pending case age report for the end of June 2001 (see Appendix DD):

<u>Pending Case Category</u>	<u>Percent Within Time Guidelines</u>
All Circuit Civil	94%
Felonies	89%
Divorces Without Children	95%
Divorces With Children	93%
District Criminal/Traffic	94%
District General Civil	99%

A fifth demonstration court indicates that it keeps its pending cases moving by always setting a date certain for future activities in each case. (See Appendix F.) As of July 2001, its time guidelines pending case age reports (see Appendix EE) show that divorces with minor children sometimes seem to move more slowly than might generally be desirable:

<u>Pending Case Category</u>	<u>Percent Within Time Guidelines</u>
All Circuit Civil	88%
Felonies	100%
Divorces Without Children	89%
Divorces With Children	79%
District Criminal/Traffic	92%
District General Civil	86%

Representatives of the sixth demonstration court indicate that they can report only anecdotally on the age of their pending cases, because the court's case management system is not now equipped to provide such information. (See Appendix G.)

The seventh demonstration court reports that it has seen a steady improvement each year in reducing the age of its pending cases. In part this is due to the fact that the court has a rigid adjournment policy, allowing adjournments only on a showing of good cause. (See Appendix H.) Time guidelines pending case age data (see Appendix GG) show that the court is doing fairly well except with regard to its district division criminal/traffic and general civil cases:

<u>Pending Case Category</u>	<u>Percent Within Time Guidelines</u>
All Circuit Civil	93%
Felonies	85%
Divorces Without Children	90%
Divorces With Children	86%
District Criminal/Traffic	64%
District General Civil	69%

B. Is the pending inventory of cases within established guidelines? It is important for a court to reduce or avoid backlog by reaching and maintaining a pending inventory that is manageable in terms of the workload of judges and court staff members. What constitutes a “manageable” pending inventory? In simplest terms, it is the largest number of pending cases at any time for which the court can meet applicable time guidelines without heroic efforts on the part of judges and staff or undue burdens on parties and counsel.²⁶ If the number of a court’s dispositions consistently falls behind its new filings, then its pending inventory will grow over time as a measure of its inability to keep up with its workload.

Information about trends in the size of pending inventories in the demonstration courts is presented in the caseload tables and charts that have been provided to NCSC by SCAO and the demonstration courts. (See Appendices R-X.) Such information for circuit court and district court cases²⁷ shows with few exceptions that the demonstration courts

²⁶ See Steelman, Goerdt, and McMillan, *Caseflow Management: The Heart of Court Management in the New Millennium* (NCSC, 2000), pp. 114-115.

²⁷ Discussion here does not encompass all of the information in those appendices. The number of minors under court jurisdiction can be affected by many factors extrinsic to court processes, and probate cases may often properly be open for years in what is in effect a postjudgment status (during which time the court’s responsibility is to monitor a fiduciary’s compliance with his or her obligations to a beneficiary or an estate as a guardian, trustee, executor, or conservator). Similarly, the FOC workload primarily involves cases of child support enforcement, in which the obligor’s responsibilities may continue throughout the minority of the children. As a result, the most telling information about pending inventories in the demonstration courts

have been able to deal successfully with sometimes-dramatic increases in new filings, disposing of cases at a pace sufficient to keep pending inventories under control. In every demonstration court, consolidation appears to have yielded benefits in terms of circuit-level pending inventories, and in almost all circumstances this has come without detriment to district level pending inventories.

For specific demonstration courts, the caseload trend appendices show the following:

Appendix R: *Circuit* filings nearly doubled, from under 900 in 1993 to over 1,600 in the year 2000. But the court's dispositions under the demonstration project were ahead of new filings. As a result, while there were 520 pending cases at the end of 1993, there were only 309 at the end of 2000.

District filings increased from about 9,400 in 1993 to a peak of around 12,000 per year in 1995-1998, dropping to about 10,600 in 2000. But the court under the demonstration project also increased its dispositions. As a result, the pending inventory (1,296 at the end of 1993) peaked before the project at 1,925 at year's end in 1995, but it has been reduced since then to 1,382 at the end of 2000.

Appendix S: *Circuit* filings increased from under 4,400 in 1993 to over 7,100 each year in 1998-2000. But the court's dispositions under the demonstration project have kept pace. While the total number of pending cases at the end of the year increased before the demonstration project from 1,513 to 2,224 in 1996, the court had reduced it to 1,179 by the end of 2000.

District filing levels were at around 52,000 in 1993, and they peaked at about 65,000 in 1996 before falling back to around 52,000 again in 2000. The court's inventory of pending cases was at around 29,000 at the end of 1993, but under the demonstration project the court (after a massive cleanup of data in 1999) had reduced it to around 19,000 cases at the end of 2000.

Appendix T: *Circuit* filings have doubled in this court, from 237 in 1993 to 517 in 1999 and 477 in 2000. But the court's dispositions under the demonstration project have kept pace. The court's total of pending cases, at 199 in 1993, was down to 137 in 2000.

District filings increased from about 2,200 in 1993 to about 2,800 in 1998, back to about 2,300 in 2000. Before the demonstration project began, the pending inventory increased from 412 at the end of 1993 to 889 at the end of 1999, which the court under the project had reduced to

is that relating to circuit division and district division cases.

493 at year's end in 2000.

Appendix U: *Circuit* filings have more than doubled, from under 1,000 in 1993 to nearly 2,100 in the year 2000. But the court's dispositions under the demonstration project have kept pace. Total pending cases, which peaked at 735 at the end of 1996, had been reduced to 458 by the end of 2000 (lower than at the end of 1993).

District filings increased by 50% from around 13,000 in 1993 to about 20,000 in 1998, dropping to about 17,000 in 2000. The pending inventory has increased as well, from 1,141 at the end of 1993 to 2,587 at year's end in 2000.

Appendix V: *Circuit* filings have more than doubled, from 294 in 1993 to 631 in 2000. Yet the court's dispositions under the demonstration project have exceeded the number of new filings. There were 134 pending cases at the end of 1993, and the pending inventory peaked before the project at 196 at year's end in 1995. Since then, the court has trimmed the pending inventory to 108 at the end of 2000.

District filings also doubled, from 2,210 in 1993 to 4,446 in 1998 and 3,550 in 2000. But the demonstration project has enabled the court to increase its dispositions as well. The pending inventory was at 233 at the end of 1993 and peaked at 713 at the end of 1995, but since then has been reduced by the court to 425 at the end of 2000.

Appendix W: *Circuit* filings have risen by 50%, from just under 6,000 in 1993 to nearly 9,000 in the year 2000. But the court's dispositions under the demonstration project exceeded new filings. Total pending cases grew from 3,300 at the end of 1993 to a high of about 4,300 at the end of each year in 1996 and 1997. But the court since then has reduced the pending inventory, to 3,374 in 2000.

District filings in one of the court's three district court locations dropped from around 43,600 in 1993 to about 35,300 in 1995. Because dispositions fell even more, the pending inventory actually increased from about 7,800 at the end of 1993 to about 10,200 at year's end in 1995. Since 1995, new filings have returned to between 41,000 and 45,000 a year from 1996 through 2000. But the court also increased total dispositions almost as much as filings, and the total pending inventory was at about 13,500 at the end of 2000.

District filings in a second district location have fluctuated in recent years – about 18,900 in 1993, 13,900 in 1995, 19,500 in 1998, and then around 16,900 in 2000. Dispositions lagged behind new filings, so that the pending inventory grew from around 19,300 at year's end in 1993 to about 26,900 at the end of 1998. But under the demonstration project, the consolidated court has sharply cut the pending inventory, so that it was down to about 12,500 cases at the end of 2000.

District filings in the third location increased from about 32,000 in 1993 to almost 43,000 in 2000. In 1997, the court had about 4,000 fewer dispositions than filings, so that its pending inventory went from about 5,900 at the end of 1993 to about 10,800 at the end of 1997. Under the demonstration project, the court has been able to dispose of more cases, so that the pending inventory at the end of 2000 was down slightly to 10,725 cases.

Appendix X: **Circuit** filings increased from under 1,110 in 1993 to over 1,300 in 1997, and then to over 3,000 in 1999, before falling back to over 2,200 in 2000. Under the demonstration project, however, the court was able to absorb the additional workload by increasing total dispositions. Total pending cases increased from 678 at the end of 1993 to 800 at year's end in 1994, but up to only 912 after the sharp jump in new filings in 1999. The court then reduced the pending inventory back to 695 by the end of 2000.

District filings in one of the court's three district court locations went from about 8,150 in 1993 to around 10,425 in 1996, before falling back to about 8,150 again in 2000. Pending inventories increased from 1,211 at the end of 1993 to 2,200 at the end of 1997. But under the demonstration project the court reduced the inventory to 1,649 by the end of 2000.

District filings in a second district location have ranged between 7,700 and 9,800 since 1993, with around 8,800 in 2000. While the pending inventory increased from 932 at the end of 1993 to 2,033 at year's end in 1994, the court under the demonstration project had reduced it to 1,029 at the end of 2000.

District filings in the third location increased from under 3,000 in 1993 to over 5,100 in 1997 and over 4,700 in 2000. Dispositions have also increased as a result of the demonstration project, however. The pending inventory went from 1,005 cases at the end of 1993 to 1,509 at the end of 1997, but since then the court has reduced it to 1,090 at the end of 2000.

C. Does the court maintain a high degree of trial date certainty? Creating and maintaining trial date certainty is a critical way for a court to manage its caseflow and assure prompt justice. If it is highly likely that a trial court will in fact be able to provide a trial on the first scheduled trial date, then attorneys and parties will either be prepared for trial on that date, or (more likely) they will negotiate the non-trial disposition of their cases by plea or settlement before that date is reached. To create and maintain a high degree of trial date certainty, a court should (a) maximize dispositions before setting

specific trial dates; (b) have realistic trial calendar setting levels; (c) have a firm policy limiting trial date adjournments; and (d) have backup judge capacity on trial dates.²⁸

For this assessment of demonstration projects, there were no data provided to NCSC to determine with certainty how well in fact the demonstration courts are able to maintain trial date certainty. The simplest way to measure trial date certainty is to count the number of trial settings necessary per case before it is disposed by trial or other means.²⁹ A second important measure is the elapsed time per case from first scheduled trial date to actual trial start or non-trial disposition. In the absence of such information, this assessment must rely on the qualitative observations by demonstration court representatives in their court consolidation status reports. (See Appendices B-H.)

As the data in Appendices R and AA suggest, one of the demonstration courts has had significant success in managing the pace of litigation in cases before it. Before the commencement of the demonstration project, the judges of that court all attended a caseflow management workshop presented by the Michigan Judicial Institute (MJI). As a result they developed a caseflow management plan that included an agreement to schedule all trials to start on the same day of the week, so that they could all provide “backup judge” capacity for one another. If any of the judges found that he had two cases on his calendar that would not settle and were ready to go to trial, they agreed that one of the other judges would, if not himself in trial, take the second trial of the “overbooked” judge. The result is that the court has firm trial dates. Attorneys in any particular case know that it will be tried on the date scheduled – if not by the originally scheduled judge, then by one of the other two judges. The circuit court backlog that existed in April 1995 has consequently been eliminated, and the overall pending inventory for the court has dropped. Knowing that the court is willing and able to reach trials on the first-scheduled date, attorneys are much more likely to resolve cases by negotiation.³⁰

A second demonstration court has been able to increase trial date certainty in domestic relations and civil cases through the creation of division assignments, as a result of which trials in such cases no longer have to be rescheduled when judges have to

²⁸ See Steelman, Goerd, and McMillan, *Caseflow Management: The Heart of Court Management in the New Millennium* (NCSC, 2000), pp. 9-16.

²⁹ *Ibid.*, pp. 120-123 and Appendix C.

preside over higher priority criminal trials. In addition, each division has a strict adjournment policy. Adjournments because of judge unavailability for trial have been virtually eliminated. (See Appendix C.)

Judge emphasis on firm trial dates (Appendix D) and permitting trial date adjournments only on rare occasions (Appendix E) are approaches used in two other courts to maintain trial date certainty. A fifth court has a practice to “spin” circuit-level jury trials to be heard by available district division judges, who serve in a backup capacity for such matters, if such trials cannot be heard by the judges to whom they were initially assigned. (See Appendix G.)

VIII. Have the Demonstration Projects Employed Technology Productively to Enhance Scheduling and Information Exchange?

In the 1999 report of NCSC’s initial evaluation of six of the seven demonstration projects, Core Criterion 7 had to do with the use of court technology.³¹ Before the commencement of the demonstration projects, the different demonstration courts were at varying stages in their progress toward the use of computers and other technology in support of enhanced court operations. Some of the pre-consolidation trial courts had to take the initial step of developing basic computer support for case processing. For other demonstration projects, the goal was to provide for compatibility and communicability among the computer systems of the three court levels. Still others sought enhanced data transfer with other state and local justice system organizations.

An ultimate issue was the effect of any such computer system or other technology developments on the effectiveness and efficiency of the demonstration courts. Because of the time, effort and cost involved in some of the technology innovations in the demonstration courts, the results of such changes are only becoming evident now that about five years have passed since the commencement of the demonstration projects.

In the survey sent to key stakeholders in the demonstration project jurisdictions, they were asked whether technology is being used more effectively in their respective trial courts. (See summary of responses to Question 21 in Appendices I-Q.) Ten of the

³⁰ Ibid., p. 15.

respondents expressed no opinion on this question. All of the others agreed that technology is being used more effectively. (See Appendices I and J.)

A. Can all cases be accessed through the court's automated case management system? The narrative in the status reports prepared by the demonstration courts implies that case-related information for all case types in each court is no longer maintained just manually, but instead is entered and maintained in one or more automated systems and is available from those systems to court staff and others entitled to such information. (See Appendices B-H.)

B. Does the court maintain a single case management system using a standard operating system, hardware platform, and peripheral devices? According to the answers by demonstration court officials to the court consolidation checklist, case management systems in six of the seven demonstration projects are integrated to include all cases under each court's jurisdiction. (See Question 31 in Appendix A.) System components, applications, configurations, and hardware are compatible and, to the extent possible, standardized in all seven courts. (See Question 35 in Appendix A.)

More specific details are provided in the demonstration court status reports. (See Appendices B-H.) In three of the courts, it appears that there is more than one case management system (see Appendices C, D, and F), although they are integrated and compatible in each of the courts and accessible to court staff members. A single-judge court has one system for all its cases. (See Appendix D.) Another court has one system for all divisions, with a system manager responsible for operation and maintenance, and with all peripheral devices and software logging into a central information repository coordinated by the system manager. (See Appendix G.) A sixth court has one AS/400 computer system for all case management information, with electronic access to all cases for all divisions. (See Appendix H.)

C. Is a single access point available for external customers to obtain case-related information? Each demonstration court indicates that it has some degree of single-point access to case-related information for external users. In one court, the sheriff, police, prosecuting attorney, and the court all have update capability or inquiry

³¹ See *Michigan Trial Court Consolidation: Final Evaluation Report* (NCSC, 1999), p. 29.

access to information in the county's integrated criminal justice information system. (See Appendix C.) Another court is working with the sheriff and the prosecuting attorney to give them access to part of the court's case information system. (See Appendix D.) PC access is available for external users in one court (see Appendix E), while another has public terminals to give access to all public case-related information (see Appendix F). Still another plans to have a computer in its file room for external users to obtain case-related information. (See Appendix F.)

A web-based Internet access system gives a fifth court's external customers (including citizens, attorneys, and remote law enforcement agencies³²) access to the court's records, calendars, and general information. It is designed to go considerably beyond simply making case-related information available. Defendants can enter pleas and pay fines electronically for traffic and minor misdemeanor violations. In addition, those on misdemeanor probation can report electronically. Citizens can also report address changes or employment changes to the FOC through the Internet link, and they can contact the central jury coordinator regarding jury service. Finally, the system provides for "customer feedback" surveys, by means of which citizens can inform the court administrator about their views on court services to the public. (See Appendix H.)

D. Does the court follow standards for office automation applications and equipment? Each demonstration court follows standards. One of the courts (see Appendix C) has standardized equipment and office automation applications through a local area network (LAN). Another follows standards set by the county's information technology manager (see Appendix E), while a third court has its own systems manager to establish standards and policies (see Appendix G). With the installation of new personal computers throughout a fourth court, all personal computer software is standardized through all court divisions in all three counties served by the court. (See Appendix H.)

E. Can external agencies electronically exchange information with the court through a single point? In the survey sent to key demonstration project stakeholders, they were asked if the use of court technology allows information to be exchanged easily, and if information is readily available when a stakeholder needs it. (See the summary of

³² Depending on their locations, state police offices and municipal police agencies all have either direct or

responses to Question 23 in Appendices I-Q.) Twelve respondents had no opinion on this question. Of those with an opinion, 91% (32 of 35) agreed that technology does indeed permit information to be exchanged easily and to be available when it is needed.

Ironically, two of the three respondents who disagreed about the ease of information exchange and availability of information are associated with a demonstration court that has made sophisticated use of information technology, but which faces the complex task of serving citizens and working with representatives of external agencies in three different counties. (See Appendices I and Q.)

Some of the status reports by the demonstration courts discuss particular examples of such information exchange. In one court, as noted above in the preceding section, the sheriff, police, prosecuting attorney, and the court all have update capability or inquiry access to information in the county's integrated criminal justice information system. The court also exchanges information electronically about jury selection, motor vehicle abstracts, and criminal history reporting. In addition, it is working on direct entry of warrant information in the "Law Enforcement Information Network" (LEIN). (See Appendix C.)

A second demonstration court has participated with state police in an "Automated Uniform Law Citation" (AULC) pilot project for the computerized preparation of traffic citations. Under this project, an electronic traffic ticket would be sent by a trooper to the state police central dispatch after issuance of a hard copy to a motorist. It would then be forwarded through LEIN to the court's case information system. (See Appendix E.) Still another court is forming a comparable pilot effort to download ticket information from one of the municipal police departments writing citations heard by the court. (See Appendix G.)

Electronic transmission of traffic ticket information is also employed in a fourth demonstration court. "Electronic bridges" (created to eliminate duplication of data entry among different divisions of court) have been used to permit transfer of key data between the court and the sheriffs' departments in the three counties served by the court, thereby

Internet access to case records in this court.

eliminating entry of basic ticket information in the court's district divisions. The court then sends calendar and disposition information back to each sheriff's department. The court plans to extend such connectivity to prosecutors in the near future. The court reports criminal conviction data electronically to the state police through a LEIN terminal using communication technologies that eliminated paper reporting and re-entry of data. The court is currently working to develop electronic filing capacity on the Internet, which will require development of electronic filing standards. (See Appendix H.)

F. Can court staff access appropriate case management information through a single system? In their responses to the court consolidation checklist, representatives of all seven demonstration courts indicate that automated case information is accessible to all employees entitled to it. (See Question 32 in Appendix A.) Status reports provide further details. In one court, case information is available from different case management systems for all court employees and other criminal justice agencies, with access limited by security at time of sign-on. (See Appendix C.) In another court, all case information is accessible through the court's single automated system from the courtroom or any court office, and the court is now working with the sheriff and prosecuting attorney to allow them access to parts of the system. (See Appendix D.)

In a third court, court personnel and court managers assert that the efficiency of court operations would be improved if separate computer information systems for its three divisions were integrated. Yet issues of confidentiality and finances have impeded the integration process. (See Appendix E.)

In another demonstration court, staff members in any court office can access cases on the court's two case information systems, and they can also get case information from personal computers at home. (See Appendix F.) All divisions of a fourth court use one case management system, with access to case information permitted on the basis of level of responsibility and need. (See Appendix G.) Court staff members in three different counties served by a fifth court have access to all cases on one central computer system. Access to any case or division is by court user and not by division or computer location, so that staff members have full access to appropriate case management information,

regardless of their location. (See Appendix H.)

G. Are technical innovations adopted by the court available to all divisions that can utilize them? The status reports by the demonstration projects indicate generally that such innovations as electronic mail are available to court staff throughout each court. (See Appendices B-H.) The demonstration project in one of the courts has permitted it to introduce video technology for use since August 2000 for the court to conduct district division arraignments and to make the record of criminal or civil trials. Video arraignments aid sheriff's department management of prisoner transport, and the video technology in other respects may be a source of revenue for the court. (See Appendix E.) In another court, innovations available to all court staff members include Internet access for legal research and "skip tracing" in the collections department. (See Appendix H.)

H. Does the court's case management system include functionality for efficient, coordinated scheduling of people and events? Since the time of judges and quasi-judicial officers is typically a court's most valuable resource, the coordination of judicial schedules is a matter that affects efficient use of judicial and quasi-judicial resources. This matter is considered above in subsection E of Section IV. Consideration here focuses on the extent to which technology has been used in the demonstration projects to support such scheduling coordination.

A classic problem in court operations arises if a case participant (such as an attorney, probation officer, caseworker, or police officer) is scheduled for appearance at the same time in two or more separate courts, divisions, or courtrooms. Since he or she cannot be in more than one place at a time, efficiency may thereby be hampered in each forum in the absence of coordination between or among them. Another classic problem involves the scheduling of a future court event in light of other commitments that individual case participants may have. For example, a court hearing may be set for a date and time when the assigned judge is also scheduled to participate in a committee meeting or make a presentation to a community group. Or a criminal matter may be set for trial on a date when a key law enforcement witness is on vacation or must attend mandatory police training. Court technology can potentially serve as a tool to help judges, court staff

and others identify scheduling conflicts and improve coordination to deal with such problems as these.

The demonstration project status reports give further information about specific courts. (See Appendices B-H.) Although only two (or possibly three) of the demonstration courts have functionality clearly built into their systems for scheduling coordination, all of them have achieved improved coordination of scheduling with the assistance of their automated systems.

One court indicates generally that it has functionality for coordinated scheduling (see Appendix B), and in the two single-judge demonstration courts the fact of having one full-time resident judge hearing all matters on a single calendar each day has eliminated coordination problems that had previously been presented by having separate judges hear the circuit, district and probate/juvenile calendars in the county in a part-time or circuit-riding capacity. (See Appendices D and F.) While the separate case management systems in a fourth demonstration court are not otherwise integrated, the fact that one person is responsible for scheduling all the judges and the magistrate means that the scheduling function in that court is integrated. (See Appendix E.)

In a fifth court, separate court systems are tied together through person scheduling. The schedules of all judges, referees, and magistrates are accessible through the county mainframe system. While calendars print automatically or on demand, it is not clear that there is any automated assistance for calendar coordination or the identification of attorney scheduling conflicts across systems. (See Appendix C.) A sixth court has the scheduling function centralized and coordinated only for cases in its civil/criminal division, one of its three district divisions, and a portion of the family division. Automated coordination assistance is not available with the separate systems of the two off-site district locations or the off-site juvenile location. (See Appendix G.)

Finally, the seventh demonstration court has a centralized case management system that provides coordinated scheduling of all cases, people and events in the three counties that it serves. Attorney conflicts between courtrooms or times can be identified electronically in most situations. (See Appendix H.)

In the survey sent for this assessment to key stakeholders for each demonstration project, Question 22 asked if the use of technology has improved scheduling practices in the trial court. (See Appendices K-Q for the responses for each demonstration court.) In all, there were 13 respondents who expressed no opinion on this question. Of the remainder, 94% (32 of 34) agreed that scheduling has been improved. (See Appendices I and J.)

IX. Have the Demonstration Projects Promoted Strong Court Leadership through Consensus Decision-making Led by the Chief Judge?

There is general agreement that strong leadership is just as important for the effective operation of a court as it is for success in other public sector organizations or in the private sector.³³ Most often, it is the chief judge who must exercise such leadership. In the most recent national research on consolidated trial courts, several challenges that a chief judge faces were identified – assigning judges, mobilizing court resources, balancing a caseload with the duties associated with the chief judgeship, working with the non-judge court administrator, serving as a spokesperson for the bench, and serving with the court administrator as a link (a) between line staff and the bench, and (b) between the court and the outside world.³⁴ In the 1999 final evaluation report of NCSC's initial demonstration project evaluation, the role of the chief judge was addressed as a facet of Core Criterion One (use of judges and quasi-judicial officers).³⁵

In the survey of key stakeholders conducted for this assessment, they were asked if the chief judge exhibits strong leadership in the trial court. (For summaries of the responses in each demonstration court, see Question 24 in Appendices K-Q.) In all four survey respondents expressed no opinion on this question. Of the remainder, all 43 respondents agreed that the chief judge in their respective courts is a strong leader. (See that question in Appendices I and J.)

Survey respondents were also asked if, for the most part, their chief judge operates

³³ See, for example, Ronald Stupak, "Court Leadership in Transition: Fast Forward Toward the Year 2000," 15 *Justice System Journal* (No. 2, 1991) 617, at 617-618.

³⁴ See David Rottman and William Hewitt, *Trial Court Structure and Performance: A Contemporary Reappraisal* (Williamsburg, Va.: National Center for State Courts, 1996), pp. 85-86.

³⁵ See *Michigan Trial Court Consolidation: Final Evaluation Report* (NCSC, 1999), pp. 44-46.

the court using consensus decision-making. (For a summary of the responses for each demonstration court, see Question 25 in Appendices K-Q.) Among all survey respondents, there were 14 who expressed no opinion on this question.³⁶ Of the remainder, 84% (27 of 32) expressed agreement that the chief judge generally operates by consensus. (See Appendix I.) Five respondents (from four courts) disagreed, however. Those in disagreement included two county commissioners, two county administrators, and a county clerk. (See Appendix J.)

A. Has a single chief judge been assigned to the trial court by the Supreme Court? As the demonstration court status reports indicate, each of the demonstration courts has a chief judge appointed by the Supreme Court. There is thus one chief judge for an entire consolidated trial court, in place of the prior chief judges of the formerly separate circuit court, district court, and probate/juvenile court in each county. (See Appendices B-H.)

Researchers and management consultants have identified continuity of leadership as an important contributor to overall management effectiveness and efficiency in courts and other governmental organizations and institutions.³⁷ Five of the demonstration projects have had the same chief judge since project commencement. Each of the other two demonstration courts has had a second chief judge appointed after the commencement of project implementation. This changeover in leadership does not appear, however, to have hindered the success of project implementation in either court.

B. Has the court established a judicial council or similar governing body that is representative of the various divisions of the court? As the status reports from the demonstration courts indicate, each has a judicial council, although they take different forms in each jurisdiction:

- The judicial council in one court includes all judges, court

³⁶ Some of these respondents have presumably been in a direct position to observe the day-to-day operations of the court since the implementation of the demonstration project. Why they did not offer an opinion on this question is a matter of speculation.

³⁷ See Steelman, Goerdt, and McMillan, *Caseflow Management: The Heart of Court Management in the New Millennium* (NCSC, 2000), pp. 197-198. See also, David Osborne and Ted Gaebler, *Reinventing Government: How the Entrepreneurial Spirit is Transforming the Public Sector* (New York: Penguin Books, 1993), p. 326.

administrators and FOC, and it serves as the governing body of the court. (See Appendix B.)

- The judicial council in the second court has been in existence since 1990 (well before demonstration project commencement), and it now includes the chief judge and chief judge pro tempore of the consolidated court; the presiding judges of the court's civil, criminal and family divisions; and the trial court administrator. The family division administrator, FOC, and civil/criminal manager attend meetings of the judicial council. (See Appendix C.)
- The judicial council in the third court consists of the administrative chief judge of the consolidated court, the district court chief judge, and the circuit court chief judge. (See Appendix D.)
- The chief judge of the fourth court makes decisions based on input from the judicial council. The judicial council is not a governance body – it implements the decisions of the management council (the court's three judges) and announces them to court staff, court participants, and court users. (See Appendix E.)
- In the fifth court, the judicial *management* council includes the chief judge of the consolidated court; two support judges from the circuit court and district court whose jurisdiction formerly included this county; the trial court administrator; and court staff supervisors. The judicial *advisory* committee includes the county administrator, the trial court administrator, and two members of the board of county commissioners. The court administrator is the liaison between the two bodies. (See Appendix F.)
- The trial court chief judge, district chief judges, and the presiding judges of the civil/criminal and family divisions form the judicial council in the sixth court, and the council also includes (as nonvoting members) the county clerk, prosecuting attorney, public defender, and three members of the private bar. (See Appendix G.)
- The judicial council in the seventh court is led by the chief judge and includes all judges and the court's two administrators. The council meets monthly to discuss issues, arrive at consensus, and make recommendations to the chief judge for implementation. (See Appendix H.)

C. Is the court's governing body the single decision-making authority for labor relations and personnel management? In four demonstration courts, the judicial council has this responsibility. (See Appendices B, C, D, and F.) In another court, this authority resides with the management council (the judges of the court). (See Appendix E.) The judicial council in the sixth court undertakes these responsibilities in a collaborative effort with the county's human resources department. (See Appendix G.)

In the seventh demonstration court, the chief judge represents the court in all labor negotiations, represents the court in all personnel discussions with county funding units, and is the final decision-making authority for all labor relations and personnel management decisions for all court divisions in all court locations. (See Appendix H.)

D. Do the court's governing body and its members represent the court as a single entity? This is the case in each demonstration court. (See Appendices B-H.)

E. Is the court regarded as a single entity by outside agencies and individuals? In their status reports and in their responses to Question 53 of the court consolidation checklist, the representatives of each demonstration court indicate that it is viewed as a single entity by outside agencies and individuals. (See Appendices A-H.) One demonstration court indicates that there is still some isolated resistance from outside agencies or stakeholders who prefer the previous three-court structure, but that most stakeholders work cooperatively with the court as a single court of general jurisdiction. (See Appendix C.) Another court reports that although local participants in the court process see the court as a single entity, some out-of-county attorneys and other court users still expect to find the traditional court structure. (See Appendix E.) A third court is using informational presentations and guided courthouse tours to help the public see the consolidated court as a single entity. (See Appendix G.)

County government officials in the three counties served by a fourth court have enacted a joint resolution creating a single funding formula for the consolidated trial court. In furtherance of this, the funding units changed public signage from the names of the previous individual courts to refer instead to the names of consolidated court divisions. Newspaper reporting of court activity refers to weekly court activity in terms of the different divisions of the consolidated court. Law enforcement agencies have made tickets for traffic and other violations returnable to the district division of the consolidated court. The chief judge or trial court administrator represent the consolidated court at various meetings with stakeholders, regardless of division or county. (See Appendix H.)

X. Global Conclusions of Key Stakeholders About Demonstration Projects

Have the trial court consolidation demonstration projects worked out well to date in the eyes of key stakeholders who did not themselves either lead or participate in the day-to-day implementation of the projects? The responses to certain parts of the survey of key stakeholders for this assessment give an informative perspective on this question.

A. Stakeholder Ratings on Specific Project Outcome Measures. There were several broad measures of demonstration project results about which stakeholders were asked to comment. These included (1) court operations efficiency; (2) service to the public; (3) the amount of attention each case type receives; (4) quality of justice; and (5) public access to justice.

One of the survey questions is whether court operations are more streamlined and efficient since consolidation. (See Question 5 in Appendices I-Q.) Four of the respondents (a county administrator, a sheriff, a bar leader, and one other – three of them associated with the same demonstration court) had no opinion on this question. Of the remaining respondents, 93% (40 of 43) agreed that operations are more streamlined and efficient. Two sheriffs and a county clerk disagreed. (See Appendices I and J.)

Another survey question (Question 10) was whether services to the public have improved. While five respondents (a county commissioner, a county administrator, two sheriffs, and a prosecutor) offered no opinion on this question, *all* of the others agreed that service has improved. (See Appendices I and J.)

While one question in the survey was whether cases move faster (Question 4), a complementary survey question was whether each type of case gets the attention it deserves. Ten respondents had no opinion on this question, including representatives of each respondent category except prosecuting attorneys and bar leaders – the respondents with the most direct knowledge and capacity to answer the question. Three of the respondents (a county commissioner, a county sheriff, and a prosecutor) indicated that each case type does *not* get the attention it deserves. Yet 92% of those expressing an opinion (34 of 37) agreed that each case type *does* get the attention it deserves. (See Appendices I and J.)

Another critical question was whether the quality of justice has improved as a result of court consolidation (Question 18). There were 16 respondents who did not

express an opinion. Of the remainder, only two respondents disagreed that the quality of justice has improved, and both of them indicated that the quality of justice is the same as it was before consolidation. (See Appendix I.)

Public access was the subject of another question (Question 20). While 11 survey respondents gave no opinion on this question, all of the others agreed that the court is more accessible to the public. (See Appendix I.)

B. Stakeholder Ratings of Overall Project Success. Perhaps the most interesting of all the global questions in the survey is Question 30 – how the respondent would rate the overall success of the demonstration project in his or her jurisdiction. One stakeholder did not respond to this question. Of the other respondents, 72% said that the project was *very* successful. There were 26% (12 respondents) who rated the project as only *somewhat* successful. Only one respondent rated it as *not very* successful.

Three demonstration projects were unanimously rated as “very successful” by all survey respondents associated with them. (See Question 30 in Appendices K, M and O.) Respondents associated with two courts gave more “very successful” ratings than “somewhat successful” or “not very successful” ratings. (See Appendices L and Q.) For the remaining two courts, there were more respondents who gave a “somewhat successful” rating than those who rated their projects as “very successful.” (See Appendices N and P.)

Among categories of survey respondents, private bar leaders were the only group who were unanimous in considering the demonstration projects in their jurisdictions to be very successful. This may be because they appear in court more often than any other group of respondents except prosecutors, or it may be because of their professional support for the judges in each jurisdiction, who were largely the champions of the demonstration projects. (See Appendix J.)

County clerks were the only respondent group whose members gave the projects more lukewarm “somewhat successful” ratings than “very successful” ratings. (See Appendix J.) This may in part arise because the most disruptive day-to-day impact of the change process embodied in the implementation of the demonstration projects was often experienced in the clerical offices for the district, probate/juvenile, and circuit court

operations. As elected county officials, the county clerks in each demonstration jurisdiction were asked to participate to a greater or lesser degree in the integration of their own court clerical functions with those of appointed clerical officials in former district and probate/juvenile courts.